

# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 2, 2021/2022

### ULB 2612 – LABOUR LAW

(All Sections/Groups)

29 APRIL 2022

Reading Time: 9.15am – 9.30am

(15 Minutes)

Answering Time: 9.30am – 12.30pm

(3 Hours)

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#### INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 Pages and 5 Questions only.
3. It is **COMPULSORY** to answer **ALL** questions from Section A and **ONE (1)** question in Section B. The distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
  - i. Employment Act 1955 (Act 265);
  - ii. Industrial Relations Act 1967 (Act 177);
  - iii. Trade Union Act 1959 (Act 262); and
  - iv. Employees' Social Security Act 1969 (Act 4)
5. Please write all your answers in the Answer Booklet provided.

**SECTION A**

Instruction: Section A has **THREE** questions. It is **COMPULSORY** to answer **ALL** questions in this Section.

**QUESTION 1**

On 28th of February 2019 (28.02.2019), Jaavad Malik (“Jaavad”) was hired by Syco Sdn. Bhd (“Syco”) as a sales executive with a monthly salary of RM5,000-00 per month with the 5% commission from sales.

As a sales executive, Jaavad has to ensure that the company reaches it RM20,000-00 sales every month. For the first 10 months of his employment, which is from the month of March until Dec of 2019, the sales surpassed the targeted amount. Within this period, Jaavad received his basic salary together with the sales commission he made from the sales.

Unfortunately, due to the pandemic of Covid-19, Jaavad’s monthly sales has dropped significantly from January to March 2020 and he can no longer reach the target fixed by the Syco. Eventually, Jaavad was given a less and less task involving sales and on 01.06.2020, he was officially assigned to different department. He opposed this reassignment and said that if he was assigned to different department, he won’t be able to achieve the target sales.

To make matters worse, for the month of June, he didn’t receive his salary but only the 5% commission from the sales. Jaavad confronted HR Department and the HR Manager informed him that it was the company’s decision. He was disappointed with Syco’s action and left the employment. He has come to see you for advice on constructive dismissal.

Please advise Jaavad on the potential legal action against Syco.

**(Total:25**

**marks)**

**QUESTION 2**

Gail is employed by Timber Asia in Kerteh, Terengganu and he is also a member of Timber Employees Union (TEU). The Union encourages Gail to recruit more employees to join the union and following such advice he manages to recruit 60% of Timber Asia’s employees to join the union.

By virtue of that recruitment, the Union served a recognition claim on the company. However, the company refused to recognize the union and instead want to accord recognition to its own recently formed in-house union, Hope Timber Union, which is in the process of recruiting members.

**Continued...**

The following week, the company transferred Gail to its subsidiary in Kundasang, Sabah. The employees who had joined the TEU are upset and have decided to slow down production in the company to show their anger against the company and their support for Gail.

Answer all questions based on the above facts:

- i. Can the company's decision to refuse recognition of TEU be challenged? Explain your answer by applying the relevant laws to the current situation.

(15 Marks)

- ii. Elaborate the legal impact of the employees' decision to slow down production at the company?

(10 Marks)

**(Total:25**

**marks)**

### **QUESTION 3**

Growealth Developer is a private company that develops and builds corporate building. Jacklyn works as a legal advisor for the Company. She has been working there for the last 3 years. Her salary was only revised after 2 years from the time she joined. Her last drawn salary is 4,000.00 per month.

Jacklyn is assessed for her work performance annually through a Key Performance Index (KPI) evaluation. In the latest 2013 evaluation, she is adjudged to perform below expectations.

Jacklyn was very upset about this as she felt she was adjudged unfairly by her supervisor. She storms into Raja's office, her supervisor, and seeks an explanation. Raja proceeds to explain his point of view in issuing out a poor assessment onto her, but she feels that Raja has been unfair in the assessment and feels victimised.

Jacklyn was very upset and started raising her voice against Raja, who also became tense and retaliated with verbal abuse. Jacklyn was so upset that she hit Raja's table and said "you are stupid; I'll kill you".

The next day, Jacklyn receives a letter from the company stating that her services are hereby terminated.

**Continued...**

The excerpts from the letter are as follows:

*Dear Ms Jacklyn,*

*It has come to our attention that you are no longer fit to work with this company, as such your services are hereby terminated with immediate effect.*

*Thank you for the services that have been rendered and good luck in your future undertakings.*

*Yours sincerely,  
Raja s/o Guna*

You are an Industrial and Labour law practitioner practising at Despondent Advocates & Solicitors. Jacklyn has heard from her friends that you are one of the best practising labour lawyers in the country so she has come to consult you. Advise her.

**(Total: 25 marks)**

**SECTION B**

Instruction: This section has **TWO** questions. Please answer only **ONE** question.

**QUESTION 4A**

Exploitative employers have been known to require employees to work very long hours without a break in order to ensure the maximisation of profits. While short-term gains may be achieved in this way, the health of the employees will suffer and eventually the quality of work will also be affected.

Based on the above statement discuss the procedures relating to working hours and leave under the Employment Act 1955.

- i. Public holidays.

marks)

(10

- ii. Annual leave.

marks)

(15

(Total: 25 marks)

Continued...

**QUESTION 4B**

The Employment Act provides special protection for female workers. The Act does not require equal pay for equal work, nor does it outlaw discrimination against women. The provisions of the Act relating to women mostly concern working hours and maternity benefits. By referring to the Employment Act 1955, discuss the following:

- i. Types of work that women are prohibited from doing under the Act.

(10

marks)

- ii. Maternity protection

(15 marks)

**(Total: 25 marks)**

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